

Remarks:

Claims:

By the present amendment, claims 59, 70-76, 78-79 and 81-91 have been cancelled without prejudice of the subject matter therein; claim 69 has been amended; and new claims 92-94 have been added.

The number of total claims and of independent claims remains less than the amount for which fees were previously paid.

The claims have been amended to more clearly define the invention. Support for the recitation of "recombinant protein" can be found at, for example, page 1, line 7; page 7, lines 15-21; and at page 8, lines 15-19. No new matter is added.

Claims Drawn to Non-Elected Invention

Claims 59, 70, 72, 73, 75, 78, 79 and 81-91 stand withdrawn from consideration as being drawn to a non-elected invention.

Applicant notes that by the present amendment, claims 59, 70, 72, 73, 75, 78, 79 and 81-91 have been cancelled without prejudice.

Claim Rejections - 35 U.S.C. §112, First Paragraph

Claims 69, 71, 74, 76, 77 and 80 stand rejected under 35 U.S.C. §112, first paragraph as allegedly containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time that the application was filed, had possession of the claimed invention. In particular, the Examiner asserted that the specification and claims did not indicate distinguishing characteristics shared by members of the claimed genus.

Without conceding the correctness of the rejection, Applicant has amended claim 69, and has cancelled claims 71, 74 and 76 to more particularly and distinctly define the subject matter of his invention. Applicant submits that the amendments render the rejection under 35 U.S.C. §112, first paragraph moot. Reconsideration and withdrawal of the rejection is therefore respectfully requested.

Claim Rejections - 35 U.S.C. §102(a)

Claims 69, 71, 74, 76 and 80 stand rejected under 35 U.S.C. §102(a), as being anticipated by Massignani et al. (WO 99/24578). The Examiner notes that Massignani et al. disclose proteins isolated from *Neisseria meningitidis* that have 97% identity with SEQ ID NO:4 of the instant application.

Without conceding the correctness of the rejection, Applicant has amended claim 69 and , and has cancelled claim 71, 74 and 76 to more particularly and distinctly define the subject matter of his invention. Applicant submits that the claims as amended are allowable because the prior art of record fails to disclose the structure of the claimed polypeptides. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Amendments to the Drawing Figures:

Replacement of the figures of record in the application with the concurrently filed replacement figures is respectfully requested. The figures have been amended to comply with 37 CFR 1.84 and with the suggestions by the Draftperson in the PTO-948.

Figure 1 has been relabeled as Figures 1A-1I, and the title text, "Alignment of the BASB024 polynucleotide sequences." has been deleted. Figure 2 has been relabeled as Figures 2A-2D, and the title text, "Alignment of the BASB024 polypeptide sequences." has been deleted. The Brief Description of the Drawings has been amended to secure consistency with the changes to Figures 1A-1I and 2A-2D.

Figures 3-6 have been amended to remove the text titles, the description of which had been previously inserted in the Brief Description of the Drawings (see Amendment of November 13, 2002). No new matter has been added.

In the Specification:

The Examiner objected to the specification with regard to the inappropriate use of the trademarks Qiagen and Novex at pages 52-53.

Applicant has amended the appropriate paragraphs at pages 52 and 53 to capitalize the cited trademarks.

Applicant has also amended two paragraphs in the Brief Description of the Drawings to secure consistency with the amended drawings.

Entry of the amendments to the specification and reconsideration of the objections to the specification in view thereof are respectfully requested.

FEE DEFICIENCY

- If an extension of time is deemed required for consideration of this paper, please consider this paper to comprise a petition for such an extension of time; The Commissioner is hereby authorized to charge the fee for any such extension to Deposit Account No. 50-0258.
and/or
- If any additional fee is required for consideration of this paper, please charge Account No. 50-0258.

Closing Remarks

Applicants thank the Examiner for the Office Action and believe this response to be a full and complete response to such Office Action. Accordingly, favorable reconsideration in view of this response and allowance of the pending claims are earnestly solicited.

Respectfully submitted,


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